

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

LENZIE GILL,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO: CV-06-1151-MEF
	)	
PROGRESSIVE DIRECT	)	
INSURANCE COMPANY,	)	
	)	
Defendant.	)	

**RESPONSE TO PLAINTIFF'S MOTION FOR RULING**  
**ON PLAINTIFF'S MOTION TO COMPEL BY**  
**PROGRESSIVE DIRECT INSURANCE COMPANY**

Comes now the defendant, Progressive Direct Insurance Company ("Progressive"), and responds to plaintiff's motion for ruling on plaintiff's motion to compel as follows:

1. The court took the plaintiff's motion to compel and motion for award of attorney's fees and costs under advisement on October 9, 2007. (*Doc.* 34).
2. However, Progressive filed a motion for summary judgment on the plaintiff's claims for breach of contract and bad faith on May 16, 2007. (*Doc.* 13-1). The court has not entered an order concerning Progressive's motion for summary judgment.
3. Additionally, the court entered an order on November 27, 2007 requesting that the parties submit briefs addressing whether the court lacks jurisdiction over this action. (*Doc.* 37). The parties submitted briefs to the court concerning the issue of jurisdiction. (*Docs.* 38 and 39).

4. It seems appropriate that the court delay ruling on the plaintiff's motion to compel (*Doc.* 33) until after it rules on the issue of jurisdiction (*Doc.* 37) and on Progressive's motion for summary judgment (*Doc.* 13-1). The court's ruling on either of these pending motions may make the plaintiff's motion to compel moot.

5. The plaintiff's motion to compel does not have any bearing on the issue of jurisdiction or Progressive's motion for summary judgment.

6. In the interest of judicial economy, Progressive requests that the court rule on the jurisdictional issue and Progressive's motion for summary judgment before ruling on plaintiff's motion to compel.

/s/ R. Larry Bradford

R. Larry Bradford, Attorney for Defendant,  
Progressive Direct Insurance Company  
ASB-8038-f64r

/s/ Shane T. Sears

Shane T. Sears, Attorney for Defendant,  
Progressive Direct Insurance Company  
ASB-5531-r68s

OF COUNSEL:

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this the 7<sup>th</sup> day of January, 2008 served a copy of the foregoing to all attorneys of record by placing a copy of same by electronically filing and/or in the United States Mail, postage prepaid and properly addressed as follows:

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